

Dear Senators LODGE, Guthrie, Stennett, and  
Representatives CRANE, Armstrong, Gannon:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Office of the Governor - Idaho Military Division:

IDAPA 15.06.00 - Rules of the Idaho Military Division - Notice of Omnibus Rulemaking - Proposed  
Rule (Docket No. 15-0600-2100).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 11/12/2021. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/10/2021.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the  
memorandum attached below.



**Terri Kondeff**  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate State Affairs Committee and the House State Affairs Committee  
**FROM:** Deputy Division Manager - Katharine Gerrity  
**DATE:** October 25, 2021  
**SUBJECT:** Office of the Governor - Idaho Military Division

IDAPA 15.06.00 - Rules of the Idaho Military Division - Notice of Omnibus Rulemaking - Proposed Rule  
(Docket No. 15-0600-2100)

#### Summary and Stated Reasons for the Rule

The Idaho Military Division submits notice of proposed rule at IDAPA 15.06.00 - Rules of the Idaho Military Division. According to the division, the rulemaking publishes the rule chapter previously submitted to and reviewed by the Legislature.

#### Negotiated Rulemaking/Fiscal Impact

The division states that negotiated rulemaking was not conducted "because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare." The division notes that there is no fee or charge imposed or increased and that no fiscal impact is anticipated.

#### Statutory Authority

The rulemaking appears to be authorized pursuant to sections 31-4816, 39-7104, 46-804, 46-805, and 46-1027, Idaho Code.

cc: Office of the Governor - Idaho Military Division  
Adj. Gen. Michael J. Garshak

\*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

**IDAPA 15 – OFFICE OF THE GOVERNOR  
IDAHO MILITARY DIVISION**

**DOCKET NO. 15-0600-2100**

**NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 31-4816(18), 39-7101, 46-804, 46-805, and 46-1027, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 15, rules of the Idaho Military Division:

**IDAPA 15.06**

- 15.06.01, *Rules Governing the Idaho Public Safety Communications Commission*; and
- 15.06.05, *Hazardous Substance Response Rules*.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2022 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rule(s) being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Major Lauren Tschampl, at 208-422-5399 or via email at [lauren.tschampl.1@us.af.mil](mailto:lauren.tschampl.1@us.af.mil).

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this October 20, 2021.

Michael J. Garshak  
The Adjutant General  
Idaho Military Division  
4040 W. Guard, Building 600  
Boise, Idaho 83705  
208-422-5242

**IDAPA 15 – OFFICE OF THE GOVERNOR  
IDAHO MILITARY DIVISION**

**15.06.01 – RULES GOVERNING THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION**

**000. LEGAL AUTHORITY.**

These rules are promulgated in accordance with Section 31-4816(18), Idaho Code, by the Commission. ( )

**001. SCOPE.**

These rules govern the Commission’s mediation and grant processes. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Applicant.** A Consolidated Emergency Communication Center submitting a grant application. ( )

**02. Commission.** The Idaho Public Safety Communications Commission as established within the Military Division by Section 31-4815(1), Idaho Code. ( )

**03. Local Government Agency.** Those entities subject to Sections 31-4801 through 31-4818, Idaho Code. ( )

**04. Consolidated Emergency Communication Center.** A governmental or multi-governmental organization authorized to collect emergency communication fees in accordance with Title 31, Chapter 48, Idaho Code. ( )

**05. Emergency Communications Grant Fund (ECGF).** The portion of the Fund made available annually for grant disbursement. ( )

**06. Fund.** The Idaho Emergency Communications Fund established by Section 31-4818, Idaho Code. ( )

**07. Grant Cycle.** The period between July 1 through the following June 30 for grant application distribution, submission, award notice and disbursement in accordance with dates established in Section 021 of these rules. ( )

**08. Local Government Agency.** Those entities subject to Sections 31-4801 through 31-4818, Idaho Code. ( )

**09. Mediation.** The process required by Section 31-4817, Idaho Code, as a condition precedent to local government agencies initiating any legal action. ( )

**10. Submission.** Submission of the issues for mediation has occurred when the documents referred to in Sections 012, 020, and 035, if applicable, have been received by the Commission. ( )

**11. Taxing District.** A fire protection district created pursuant to Section 31-1402, Idaho Code, an ambulance service created pursuant to Section 31-3901, Idaho Code, or an ambulance service district created pursuant to Section 31-3908, Idaho Code. ( )

**011. (RESERVED)**

**SUBCHAPTER A – RULES GOVERNING MEDIATION**

**012. REQUEST FOR MEDIATION.**

The parties must submit a written request for mediation to the Commission demonstrating to the reasonable satisfaction of the Commission that all parties are requesting the mediation. ( )

**013. SCHEDULED GROUP MEDIATION.**

Within fifteen (15) days from the date of receipt of a request for mediation, the Commission shall schedule a date for

a mediation at which all parties and a quorum of the Commission can be present, and notify the parties in writing of the date of the group mediation. ( )

**014. REQUIREMENT OF SUBMISSION OF DOCUMENTS AND EXHIBITS.**

The Commission may require the parties to produce documents at or before the date set for the group mediation. Such documents may include, but are not limited to, individual statements of position from each party. The Commission will notify the parties in writing of any documents that may be required to be produced and the date of submission. No later than the date set by the Commission, the parties shall exchange and simultaneously submit to the Commission the required documents and exhibits. ( )

**015. INDIVIDUAL POSITION STATEMENTS.**

If the Commission requires individual statements of position from each party, the statements of position should begin with a one (1) page statement of the dispute. ( )

**01. Stipulation of Facts.** The parties are encouraged to stipulate to as many facts as possible and clearly identify what facts are being stipulated. ( )

**02. Supporting Documents.** The parties should present their entitlement position with specific references to appropriate supporting documents, to be included with the statement of position. ( )

**016. JUDICIAL RULES.**

The Commission will not be bound by any judicial rules of evidence or burden of proof applicable to civil proceedings. ( )

**017. GROUP MEDIATION.**

The Commission chairman, or in his absence the vice-chairman or other commissioner designated by the chairman, will preside over the mediation. ( )

**01. Initial Presentation.** Each party shall make an initial presentation of its position with respect to the dispute. ( )

**02. Rebuttals.** The Commission may allow rebuttals to such presentations when it considers them relevant or necessary to make its recommendations. ( )

**03. Time Limits.** The Commission may set and limit the time of any presentation as it deems necessary for a sufficient understanding of the facts or issues to make its recommendation. ( )

**04. Questions by Commission.** The Commission may question the parties during the group mediation. ( )

**018. SUPPLEMENTAL DOCUMENTATION.**

The Commission may require the parties to provide supplemental documentation and may establish a date by which such documentation is due. ( )

**019. COMMISSION RECOMMENDATION.**

The Commission may make such recommendation orally or in writing. ( )

**020. TERMINATION OF MEDIATION.**

The mediation shall be terminated: ( )

**01. Settlement.** By the signing of a settlement agreement between the parties covering any or all of the issues between them; and/or ( )

**02. Failure to Agree.** By the written declaration of all parties and the chairman, on behalf of the Commission, that the parties could not come to an agreement in the mediation covering any or all of the issues between them. ( )

021. -- 099. (RESERVED)

**SUBCHAPTER B – COMMISSION GRANTS**

**100. GRANT ADMINISTRATION.**

**01. Emergency Communications Grant Fund Source.** The moneys that may be available through the ECGF are from the emergency communications fees placed in the Fund pursuant to Section 31-4819, Idaho Code. ( )

**02. Alternate Emergency Communications Grant Fund Sources.** Grants, donations, gifts, and revenues from other sources may augment the ECGF amount available when any limitations or requirements related to the use of such revenues are consistent with these rules. ( )

**03. Other Emergency Communications Grants.** The Commission may secure grants from federal, foundation, or other sources. When these sources place requirements or restrictions that are contrary to these rules, the Commission may establish a separate application, disbursement, or documentation program as appropriate. ( )

**04. Emergency Communications Fund Grant.** The amount of funds available through ECGF will be determined annually by the Commission in accordance with Section 31-4819, Idaho Code. ( )

**101. GRANT CYCLE.**

**01. Application Availability.** The Commission will make an application and guidance available no later than July 1 of each year. ( )

**02. Application Period.** The Applicant has until July 31 to complete and submit the application to the Commission. ( )

**03. Application Evaluation Period.** Prior to September 15, the Commission and, if applicable, a grant subcommittee, will evaluate the applications received. ( )

**04. Award Notification.** Prior to October 31, the Commission will issue notification to every Applicant regarding the disposition of its grant request. ( )

**05. Grant Disbursement.** Grant disbursement will occur prior to April 30. ( )

**06. Deadline for Return of Funds.** All unused grant funds not expended for costs associated with Applicant's award must be returned by the Applicant no later than May 31. ( )

**102. APPLICATION.**

A completed application must be submitted by the Applicant on or before the conclusion of the application period specified in Section 101 of these rules to be considered during the Grant Cycle. ( )

**01. Application Frequency.** Only one (1) application per Consolidated Emergency Communication Center may be filed in any Grant Cycle. ( )

**02. Required Information.** ( )

**a.** Description of proposed equipment purchases; ( )

**b.** Type, quantity, and purpose of similar equipment presently in use by the Applicant; ( )

**c.** Age and condition of equipment being replaced, if applicable; ( )

**d.** Documentation of one (1) or more vendor price quotes for all proposed equipment purchases;

- ( )

e. Prioritization by the Applicant of equipment requested when the application requests funding for two (2) or more items; ( )
- f. Operating budget; ( )
- g. All funding sources and revenue generated by source; ( )
- h. Amount of emergency communications fee charged in accordance with Title 31, Chapter 48, Idaho Code; ( )
- i. Resident population within the Applicant response area in Idaho; ( )
- j. Migrant and tourist population within the Applicant response area in Idaho; ( )
- k. Number and name(s) of law enforcement, fire, and emergency medical service organizations for which the Consolidated Emergency Communications Center serves as the primary 911 agency; ( )
- l. County, city, or Taxing District endorsement(s); ( )
- m. Federal Tax Identification Number and DUNS Number (Dun & Bradstreet Data Universal Numbering System); ( )
- n. Contact person for verification of information; and ( )
- o. Narrative description of need. ( )
- 03. Incomplete Application.** An application missing required information may be excluded from consideration for an award. ( )
- 04. Application Purpose.** The grant application and any attachments submitted by the Applicant shall be the primary source of information for awarding a grant. ( )
- 05. Applicant’s Request for Amendment.** An Applicant may amend its application after the application period has ended by sending both a written request and the proposed application amendment to the IPSCC grant subcommittee. The Applicant shall provide detailed reasons for the Applicant’s request for amendment. The IPSCC grant subcommittee will review the Applicant’s request for amendment and make a recommendation to the IPSCC concerning the request. The IPSCC will either approve or deny the Applicant’s request for amendment by vote. The IPSCC’s decision is final. If the IPSCC does not use a grant subcommittee, an Applicant’s request for amendment will be submitted directly to the IPSCC. ( )
- a. An amended application can be submitted by any Applicant before award notifications have been issued. After award notifications have been issued, an amended application can only be submitted by an Applicant who has been awarded a grant for the applicable grant cycle. ( )
- b. If an Applicant’s request for amendment is approved before grant award notifications have been issued, the Applicant’s amended application and not the Applicant’s original application shall be considered for award eligibility. If an application amendment is approved after grant award notifications have been issued, the Applicant’s award amount will not increase and may decrease depending on the needs specified in the amended application. ( )

**103. AWARD ELIGIBILITY REQUIREMENTS.**

- 01. Equipment.** Only equipment identified as allowable in the application guidance may be purchased with grant funds. ( )



**02. Award Consideration Criteria.** To be considered for an award, an Applicant must meet all of the following requirements: ( )

**a.** Be a Consolidated Emergency Communication Center collecting emergency communications fees in accordance with Title 31, Chapter 48, Idaho Code, delivering or seeking to deliver Consolidated Emergency Communication services; ( )

**b.** Comply and warrant to comply with applicable law, including but not limited to Section 31-4804(5), Idaho Code; ( )

**c.** Agree to follow all applicable bid laws in the acquisition of any equipment paid for with grant funds; and ( )

**d.** Agree to use any grant funds in strict compliance with the grant terms and agree to provide written documentation or proof of expenses to the Commission as required by the grant terms. ( )

**104. AWARD RECOMMENDATION.**

If the Commission uses a grant subcommittee, the Commission shall request a recommendation from the grant subcommittee regarding the distribution of grant funds. ( )

**01. Assessment and Validation of Need.** The grant subcommittee, if used, shall review grant applications prior to making a recommendation about awards. ( )

**02. Contingency Awards.** The grant subcommittee, if used, may make contingency award recommendations in the event that other awards are withdrawn as described in Section 047 of these rules. ( )

**03. Commission Approval.** Whether or not a grant subcommittee is used, all awards must be approved by the Commission. If no grant subcommittee is used, the Commission shall review the applications and may make provision for contingency awards, as set forth above. ( )

**105. CRITERIA FOR EQUIPMENT.**

The following weighted criteria shall be used to evaluate applications for equipment, with maximum weight available for each criterion as indicated. Greater value will be assigned to conditions indicating greater need for each criterion: ( )

**01. Applicant Equipment Age.** The age of similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating older equipment will be assigned greater value. The application demonstrating replacement of older equipment with NG911/I3 compliant equipment will be assigned a greater value. ( )

**02. Applicant Equipment Availability.** Similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating lack of similar equipment will be assigned greater value; the application demonstrating no access to similar equipment will be assigned the maximum value. ( )

**03. Anticipated Use.** An estimate of the frequency of use for the equipment; value = fifteen (15). The application demonstrating a higher ratio of dispatch per capita will be assigned greater value. ( )

**04. Duration of Use.** An estimate of the length of time the equipment would be used, expressed as a mean time; value = fifteen (15). The application demonstrating a greater duration of use will be assigned greater value. ( )

**05. Fiscal Resource Base.** The proportion of operating budget supported by tax revenue; value = ten (10). The application demonstrating less revenue from taxes expressed as a percent of total revenue for the most recent year will be assigned greater value. ( )

**06. City, County and Taxing District Endorsement.** The proportion of Idaho cities, counties and Taxing Districts within which the Applicant's primary service area occurs that endorse the application; value = five ( )

(5). The application demonstrating a larger percent of endorsements will be assigned greater value. ( )

**07. Population.** The number of people residing in the Consolidated Emergency Communications Center’s service area; value = five (5). The application demonstrating a greater number of people will be assigned greater value. ( )

**08. Square Mileage.** The area served by the Consolidated Emergency Communications Center; value = fifteen (15). The application demonstrating a greater square mileage will be assigned greater value. ( )

**09. Number of Law Enforcement, Fire and Emergency Medical Service Agencies Dispatched.** Value = ten (10). The application demonstrating a higher number of law enforcement, fire and emergency medical service agencies will be assigned greater value. ( )

**10. Narrative.** The need for and lack of availability of funds from other sources as documented by the Applicant; value = twenty (20). The application demonstrating a greater need for and lack of available funds will be assigned greater value. The application seeking to share resources and equipment with other 911 service areas (e.g., host remote) will be assigned a greater value. ( )

**106. WITHDRAWAL, DISCONTINUANCE, ASSIGNMENT.**

**01. Withdrawal.** Any Applicant may withdraw or forfeit an application at any time. ( )

**02. Ability to Compete.** The withdrawal of an application does not affect the Applicant’s ability to reapply in a subsequent Grant Cycle. ( )

**03. Discontinuance.** The Commission may discontinue the grant award or approval process if any of the following occurs: ( )

**a.** The chief administrative official of the Applicant or his designee submits a notice of withdrawal in written form to the Commission. ( )

**b.** The Applicant does not provide required documentation during the award or approval process. ( )

**c.** The Commission determines the Applicant is out of compliance with any award eligibility requirements. ( )

**04. No Right of Assignment.** The Applicant may not assign any award to another Applicant or another Consolidated Emergency Communications Center. ( )

**107. FRAUDULENT INFORMATION ON GRANT APPLICATION.**

Providing false information on any application or document submitted under these rules is grounds for declaring the Applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the Commission. ( )

**108. -- 999. (RESERVED)**

# OFFICE OF EMERGENCY MANAGEMENT

## 15.06.05 – HAZARDOUS SUBSTANCE RESPONSE RULES

### 000. LEGAL AUTHORITY (RULE 0).

This chapter is adopted under the authority of Section 39-7101, Idaho Code. ( )

### 001. SCOPE (RULE 1).

This chapter creates local emergency response authorities and regional response teams; the location and jurisdiction of regional response teams; liability for incident response costs; notification to local and state emergency response authorities of a hazardous substance incident; call-out procedure for emergency response agencies; and cost recovery and cost reimbursement procedures for emergency response agencies. ( )

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS (RULE 10).

In addition to the definitions in Section 39-7103, Idaho Code, the following definitions apply: ( )

**01. Emergency Responder.** Person affiliated with an emergency response agency who is dispatched to the scene upon notification of a hazardous substance incident. Emergency responders may be local, state, federal or industry personnel who have received appropriate hazardous materials training as defined by OSHA and EPA Regulations. ( )

**02. EPCRA.** Emergency Planning and Community Right to Know Act of 1986 (Title III of the Superfund Amendments and Reauthorization Act).. ( )

**03. Hazardous Substance Incident.** An emergency circumstance that requires a response by the state emergency response team or the local emergency response agency to monitor, assess and evaluate a release of, or the threat of a release of, a hazardous or potentially hazardous substance. A hazardous substance incident may require containment or confinement, or both, but does not include site cleanup or remediation efforts after the incident commander has determined the emergency has ended. ( )

### 04. Hazardous Substance Incident Levels. ( )

**a.** Regulatory - A release of a 'reportable quantity' or less of regulated hazardous substances that does not require any emergency response on the part of public sector responders. This would include a weapons of mass destruction threat or suspicion that is clearly a hoax without requiring additional analysis. ( )

**b.** Level 1 - An incident involving any response, public or private, to an incident involving hazardous substances that can be contained, extinguished, or abated using resources immediately available to the responders having jurisdiction. A weapons of mass destruction threat or suspicion that requires local response to determine whether or not it is life threatening. A Level 1 incident presents little risk to the environment or public health with containment and clean up. ( )

**c.** Level 2 - An incident involving hazardous substances that is beyond the capabilities of the first responders on the scene, and may be beyond the capabilities of the public sector response agency having jurisdiction. Level 2 incidents may require the services of a state of Idaho Regional Response Team, or other state/federal assistance. This would include a weapons of mass destruction (WMD) threat or incident that involves explosives, release of toxic material, release of radioactive material or release of organisms that can be analyzed and stabilized using resources that exist within the state of Idaho. This level may pose immediate and long-term risk to the environment and public health and could result in a local declaration of disaster. ( )

**d.** Level 3 - An incident involving weapons of mass destruction/hazardous substances that will require multiple state of Idaho Regional Response Teams or other resources that do not exist within the state of Idaho. These incidents may require resources from state and federal agencies and private industry. Level 3 incidents generally pose extreme, immediate and long-term risk to the environment and public health. ( )

**05. Idaho Hazardous Materials/WMD Incident Command and Response Support Plan.** A plan that has the primary purpose of providing effective, coordinated emergency response support to local government by state, federal and private agencies for incidents involving the release of hazardous substances in the state of Idaho. ( )

a. This plan may be activated independently of the Idaho Emergency Operations Plan. ( )

b. Authority for implementation of this plan is derived from the Idaho Hazardous Substance Emergency Response Act (Section 39-7101, Idaho Code), the Idaho Environmental Protection and Health Act (Section 39-101 et seq., Idaho Code), the Hazardous Waste Management Act (Section 39-4401 et seq., Idaho Code), Protection from Radioactive Materials (Section 39-3005, Idaho Code), and the Idaho Homeland Security Act of 2004 (Section 46-1001 et seq. Idaho Code). ( )

**06. Idaho Regional Response Teams.** Teams authorized by the state of Idaho which are trained and equipped to respond to incidents. These teams are based in local departments and respond outside local jurisdictional boundaries upon approval of the Office of Emergency Management. These teams include Regional Hazardous Materials Response Teams (RRT's) as well as Regional Bomb Squads (RBS's). The Idaho Regional Response Teams are responsible to the local Incident Commander. ( )

**07. Incident Command System (ICS)/National Incident Management System (NIMS).** ( )

a. The Incident Command System (ICS) is a widely used and understood emergency management tool. It is used by local, state, and federal agencies and the military. Use of the ICS for hazardous substance incidents is required by the Emergency Planning and Community Right to Know Act (EPCRA), Occupational Safety and Health Administration (OSHA) rules, and the National Fire Protection Association (NFPA). It has been adopted by the National Fire Academy as the model system for the fire service. It is also the policy of the state of Idaho that the ICS will be used in response to hazardous substance incidents. ( )

b. NIMS is a system mandated by Homeland Security Presidential Directive 5 that provides a consistent nationwide approach for federal, state, local and tribal governments, as well as the private-sector and nongovernmental organizations to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity. NIMS builds on the ICS and the proven principles of unified command. ( )

**08. Incident Commander.** The designated local emergency response official responding to an incident. This person must be fully trained and knowledgeable in the ICS. Normally, the Incident Commander will be the local fire chief or law enforcement officer. A local jurisdiction, based on its local plan and resource assessment, may request that Idaho State Police assume incident command, particularly for incidents on U.S. Interstates and state-numbered routes, including rights-of-way. The Incident Commander is in overall charge of all efforts at the scene. ( )

**09. Local Emergency Planning Committee (LEPC).** A committee made up of local officials, citizens, and industry representatives charged with development and maintenance of emergency response plans for the local emergency planning district as per EPCRA requirements. Planning procedures include hazardous substance inventories, compilation and coordination of fixed facility emergency response plans, hazardous substance response training, and assessment of local response capabilities. ( )

**10. Regional Response Team (RRT).** See Idaho Regional Response Teams. ( )

**11. Reimbursable Costs.** The total eligible expenses arising from response to a hazardous substance incident. Such costs generally include, but are not limited to, all state and local government expenses that result from the assessment and emergency phases of the response activity. Emergency response costs do not include clean-up or disposal costs of hazardous substances, except as may be reasonably necessary and incidental to preventing a release or threat of release of a hazardous substance or in stabilizing the emergency response incident. ( )

**12. Responsible Party or Spiller.** Any person who owns, controls, transports, or causes the release, or threat of release of a hazardous substance which is involved in a hazardous substance incident shall be strictly liable for the costs arising out of the response. ( )

**13. State Communications.** The communications center for state hazardous substance emergency response. State Communications can be reached by calling 1-800-632-8000 or 208-846-7610. Notification of State

Communications is the first step in initiating the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan. ( )

**14. State Emergency Response Teams.** See Idaho Regional Response Teams. ( )

**15. State On-Scene Coordinator (SOSC).** To ensure coordination during a significant incident, the state of Idaho will provide a State On-Scene-Coordinator (SOSC). The SOSC will facilitate the formation of a unified command during a significant incident. Under Unified Command, the Idaho SOSC can assist by acquiring resources, advising on response issues, and coaching the jurisdiction in overall scene management. The SOSC will coordinate with responding state agencies and be the principal state spokesperson in the unified command as an advocate for all state interests. In this role, the SOSC effectively represents the interests of the state of Idaho and its citizens. The Idaho SOSC will be appointed by the Director, Office of Emergency Management or his designee. ( )

**011. ABBREVIATIONS (RULE 11).**

**01. A.G.** Office of the State Attorney General. ( )

**02. CERCLA.** Comprehensive Environmental Response, Compensation, and Liability Act. ( )

**03. CFR.** Code of Federal Regulations. ( )

**04. HMTA.** Hazardous Materials Transportation Act. ( )

**05. NIMS.** National Incident Management System. ( )

**06. NFPA.** National Fire Protection Act. ( )

**07. OEM.** Office of Emergency Management. ( )

**08. OSHA.** Occupational Safety and Health Administration. ( )

**09. RBS.** Idaho Regional Bomb Squads. ( )

**10. WMD.** Weapons of Mass Destruction. ( )

**012. -- 099. (RESERVED)**

**100. REGIONAL RESPONSE TEAMS, DESIGNATION, LOCATION, JURISDICTION, ACTIVATION, LIABILITY (RULE 100).**

**01. Designation of Regional Response Teams.** Each RRT shall be capable of responding to hazardous substance emergencies within their jurisdiction or, when approved by the state of Idaho Military Division, **Office of Emergency Management**, in their region, or other state regions. ( )

**02. Location of Regional Response Teams.**

Area of Idaho	Primary Response Counties	Designation	Team Location – Headquarters
Region 1	Benewah, Bonner, Boundary, Kootenai, Shoshone	RRT1 Spokane Bomb Squad	Kootenai County Fire and Rescue Spokane Police and Sheriff's Office

Area of Idaho	Primary Response Counties	Designation	Team Location – Headquarters
Region 2	Clearwater, Idaho, Latah, Lewis, Nez Perce	RRT2 Explosive response covered by Spokane and RBS3	Lewiston Fire Department
Region 3	Adams, Canyon, Gem, Owyhee, Payette, Washington (Gem response may come from Boise for access time)	RRT3 RBS3	Nampa/Caldwell Fire Department Nampa Police Department
Region 4	Ada, Boise, Camas, Elmore, Valley (Gem response for access time)	RRT4 RBS4	Boise Fire Department Boise Police Department
Region 5	Blaine, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls (Minidoka and Cassia may come from Southeast for access time)	RRT 3, 4, 6, 7 RBS5	RRTs 3, 4, 6, 7 Twin Falls Police Department
Region 6	Bannock, Bear Lake, Butte, Bingham, Caribou, Franklin, Oneida, Power (Minidoka and Cassia responses for access time)	RRT6 Explosive response covered by RBS5 and RBS7	Pocatello Fire Department
Region 7	Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton	RRT7 RBS7	Idaho Falls Fire Department Idaho Falls Police Department

( )

**03. Primary Jurisdiction of Regional Response Teams.** See Subsection 100.02 of these rules.

( )

**04. Activation of Regional Response Teams.**

( )

**a.** The party requesting the assistance must:

( )

i. Contact State Communications at 1-800-632-8000, or (208-846-7610).

( )

ii. State their name;

( )

iii. State their location;

( )

iv. Provide a description of the incident; and

( )

v. Provide a description of the type of assistance requested.

( )

**b.** RRTs must be activated by the Military Division when responding outside their jurisdiction by calling Idaho State Communications Center at 800-632-8000, or (208) 846-7610. This will initiate a conference call, if appropriate, with the appropriate state and local agencies.

( )

**c.** If the request is for assistance with a drug lab response, the requester must call State Communications and provide the following:

( )

i. That the request is for a drug lab response;

( )

- ii. The location, which must include, at a minimum, the county and city; ( )
- iii. The type of assistance requested; and ( )
- iv. The nature of the chemicals released. ( )

**d.** State communications will then page the OEMHS Haz Mat Duty Officer, provide the information, and request authorization for the RRT to respond. Upon authorization, State Communications will notify the appropriate RRT of the request for assistance and the authorization to respond. ( )

**05. Reimbursable Costs -- Hazardous Substances. ( )**

**a.** State emergency response teams and local emergency response agencies may submit claims within sixty (60) days of the termination of the incident, to the Military Division for reimbursement. Eligible documented costs, incurred as a result of their response to a hazardous substance incident, may be submitted. ( )

**b.** State emergency response teams and local emergency response agencies may submit claims within sixty (60) days of the termination of the incident, to the Military Division for reimbursement. The following documented costs, incurred as a result of their response to a hazardous substance incident may be submitted: ( )

i. Disposable materials and supplies acquired, consumed, and expended specifically for the purpose of the response; ( )

ii. Compensation of employees for the time and efforts devoted specifically to the response that are not otherwise provided for in the applicant's operating budget, (e.g., overtime pay for permanent fulltime and other than fulltime employees, recalled personnel or responding when out of jurisdiction); ( )

iii. Rental or leasing of equipment used specifically for the response (e.g., protective equipment or clothing, scientific and technical equipment); ( )

iv. Replacement costs for equipment owned by the applicant that is contaminated beyond reuse or repair, if the applicant can demonstrate that the equipment was a total loss and that the loss occurred as a result of the response (e.g., self-contained breathing apparatus irretrievably contaminated during the response); ( )

v. Decontamination of equipment contaminated during the response; ( )

vi. Special technical services required for the incident response (e.g., costs associated with the time and efforts of local and state personnel to recover the costs of response, and of technical experts/specialists not otherwise provided for by the local government); ( )

vii. Medical monitoring, treatment of response personnel, and rehabilitation costs as per 29 CFR 1910, 120; NFPA 1500; and NFPA 1584; and ( )

viii. Laboratory costs for purposes of analyzing samples taken during the response. ( )

**c.** Reimbursement for costs will not exceed the duration of the response. Reimbursements shall only be paid after the military division finds that the actions by the RRT, or the emergency response agency were taken in response to a hazardous substance incident as defined in this chapter. ( )

**06. Liability for Response Costs - Non-Hazardous Substances. ( )**

**a.** The spiller or transporter of non-hazardous substances shall be liable for the response costs of spills of non-hazardous substances when the spiller or transporter failed to comply with laws or regulations of the state or federal government which would have facilitated identification of the product as a non-hazardous substance. ( )

b. The person or entity requesting assistance in all other instances shall be liable for response costs to non-hazardous substances. ( )

**101. -- 199. (RESERVED)**

**200. LERA (RULE 200).**

**01. Responsibility of Local Governments for Establishment of LERA.** LERA means those persons or agencies designated under Section 39-7105, Idaho Code, by the city, or county to be the first response authority for hazardous substance incidents. ( )

**02. LERA Powers and Duties.** ( )

a. Respond: The LERA will provide response to all hazardous substances incidents in their jurisdiction and to any incidents that overlap jurisdictions in a fashion consistent with the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan except as provided in a local emergency response plan. ( )

b. Initiate State Plan: The LERA may request state assistance consistent with the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan through the State Communications Center. ( )

c. Right to Claim Reimbursement: The LERA may claim reimbursement or costs associated with a hazardous substance emergency directly from the spiller, shipper, transporter, property owner, occupant or party responsible for the hazardous substance incident or emergency. The LERA may, in the alternative, if the incident was reported to the State, submit claims to the Military Division within sixty (60) days after the termination of an incident for the reimbursement of documented costs listed in Section 39-7109, Idaho Code, incurred as a result of response to a hazardous substance incident. Reimbursement claims for those costs may not exceed the duration of the response. The LERA must provide a written incident report and any backup documentation to the Military Division containing the following information: ( )

- i. Date and time of incident; ( )
- ii. Type of incident; ( )
- iii. Level of response required; ( )
- iv. Response action taken; ( )
- v. Time the incident commander declared the incident ended; ( )
- vi. Follow-up information; and ( )
- vii. Any other pertinent information such as responsible party etc. ( )

d. Local Planning: The LERA, as a member of the LEPC, should be an active participant in their jurisdictions emergency planning process. ( )

**03. Training.** Personnel responding to a hazardous substance emergency shall be trained, at a minimum, to the Hazardous Substance Operations level. In addition, all personnel must have training in the ICS and the NIMS set forth in the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan. ( )

**04. LERA Notification.** ( )

a. Any spiller, shipper, transporter, property owner, occupant or other person with knowledge of a



hazardous substance incident shall notify the LERA of any spill or potential spill. ( )

**b.** Notification of the LERA may be through the local dispatch authorities or through the State Communications Center at 800-632-8000, or (208) 846-7610. The State Communications Center shall notify the Local Authority and the Military Division HAZMAT Duty Officer. ( )

**c.** The spiller, shipper, transporter, property owner, occupant or other person with knowledge of a hazardous substance incident notifying the LERA and State Communications Center shall provide their: ( )

i. Name; ( )

ii. Address and telephone number; ( )

iii. An address and telephone number where they can be reached for the duration of the incident. ( )

**d.** Such person shall remain available to the incident commander throughout the duration of the incident. ( )

**201. -- 299. (RESERVED)**

**300. COST REIMBURSEMENT (RULE 300).**

**01. Submission of Claims and Forms.** State RRTs and local emergency response agencies may submit claims within sixty (60) days of the termination of the incident to the State of Idaho, Military Division, for reimbursement of documented and reimbursable costs incurred as a result of their response to a hazardous or potentially hazardous substance incident. Reimbursable costs are those set forth in Section 39-7109, Idaho Code. ( )

**02. Limitations for Seeking Reimbursement, Acceptance of Claims.** Claims for reimbursement shall be submitted to the Military Division within sixty (60) days after termination of the hazardous substance incident for the State's determination of payment. Termination of the incident occurs when the Incident Commander declares the incident terminated. The Military Division will review the costs submitted and notify the response agency or agencies as to which costs disqualify for reimbursement within thirty (30) days of receipt. ( )

**03. Claims Against Spiller or Other Responsible Party.** ( )

**a.** Upon receipt and review of claims for reimbursement within sixty (60) calendar days after close of incident, the Military Division will compile a thirty (30) calendar day demand letter to the responsible party to be sent certified mail, as well as standard mail, with a copy of the complete packet. ( )

**b.** If responsible party does not respond or submit payment within thirty (30) calendar days of first letter, a ten (10) calendar day demand letter will be sent certified mail. ( )

**c.** If the responsible party has not responded to the ten-day letter; within ten (10) calendar days, a packet will be assembled for the A.G. This packet will include the entire file, and a letter to the A.G. explaining the steps taken and requesting their assistance in collecting the costs. ( )

**d.** If the responsible party does not respond to the A.G., upon their recommendation, the packet will be submitted to a Collection Agency. If the incident is submitted to a collection agency, the responsible party will incur additional costs. ( )

**04. Cost Recovery, Deficiency Warrants.** The Military Division is responsible for recovering documented and reimbursable costs incurred from the spiller. If a spiller is unknown, cannot be located, or refuses to pay upon demand, the Military Division will make recommendations as to payment to the Board of Examiners within one hundred twenty (120) days after termination of the hazardous substance incident. The Board of Examiners may authorize the issuance of deficiency warrants for the purpose of reimbursing reasonable and documented costs

associated with emergency response actions taken by response agencies. ( )

**05. Civil Actions.** It is the duty of the A.G. to commence any civil action brought by the Military Division pursuant to nonpayment from a spiller. At the request of the Military Division, a political subdivision of the state, or a local governmental entity that has responded to or contained a hazardous substance incident, the A.G. may commence a civil action on their behalf. ( )

**301. DUTY TO COOPERATE (RULE 301).**

**01. Responding Agencies.** Local emergency response authorities, first responders, and regional response teams shall cooperate with the Military Division and the A.G. in collecting and securing payment from the spiller or other responsible party. ( )

**02. Cooperation Provided.** Such cooperation includes, but is not limited to: ( )

**a.** Allowing lawsuits to be filed in the name of the local jurisdiction, LERA, or regional response team; ( )

**b.** Providing testimony and assistance in preparing for trial; ( )

**c.** Investigation; ( )

**d.** The collection of evidence, including securing photographs or videotape of the spill site; and ( )

**e.** Providing relevant test data. ( )

**302. -- 999. (RESERVED)**